

AMENDED IN ASSEMBLY JANUARY 29, 2008

AMENDED IN ASSEMBLY JANUARY 17, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1751**

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**Introduced by Assembly Member Fuentes**

August 27, 2007

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An act to repeal and add Section 22659.5 of the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL’S DIGEST

AB 1751, as amended, Fuentes. Vehicles: nuisance abatement: impoundment.

Existing law authorizes a court in a criminal action against a person who is charged with a misdemeanor or felony violation of illegally dumping harmful waste matter, on the motion of the prosecutor or county counsel, to declare a person’s vehicle used in the commission of the violation to be a nuisance and, upon conviction, to order the vehicle sold if the person has 2 or more prior convictions, which are not infractions, for illegally dumping waste matter and the person is the registered owner or the registered owner’s agent or employee.

Existing law authorizes a city, ~~a county~~, or ~~a city and county~~ to establish a 5-year pilot program that implements a procedure to declare a motor vehicle to be a public nuisance when the motor vehicle is used in the commission of specified crimes related to prostitution.

This bill would repeal the pilot program and would instead authorize a city, ~~a county~~, and ~~a city and county~~ to adopt an ordinance declaring a motor vehicle to be a nuisance subject to impoundment for not more

than 30 days when the motor vehicle is involved in the commission of specified crimes related to illegal dumping of commercial quantities of waste matter and prostitution. The bill would require the ordinance to include specified procedures for the impoundment of the motor vehicle and for a poststorage hearing.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature in enacting this  
2 measure to authorize cities and counties to enact vehicle seizure  
3 and impoundment ordinances to abate nuisances, as long as the  
4 ordinance includes the due process safeguards contained in this  
5 measure and Section 14602.8 of the Vehicle Code and is limited  
6 to vehicles used in connection with specific criminal violations.

7 SEC. 2. Section 22659.5 of the Vehicle Code is repealed.

8 SEC. 3. Section 22659.5 is added to the Vehicle Code, to read:

9 22659.5. (a) A city or county may adopt an ordinance declaring  
10 a motor vehicle to be a public nuisance subject to impoundment  
11 for not more than 30 days upon the arrest of a person while using  
12 the vehicle, if the motor vehicle is used in the commission or  
13 attempted commission of an act in violation of any of the  
14 following:

15 (1) Section 266h of the Penal Code.

16 (2) Section 266i of the Penal Code.

17 (3) Subdivision (h) of Section 374.3 of the Penal Code, *subject*  
18 *to subdivision (d) of this section.*

19 (4) Subdivision (b) of Section 647 of the Penal Code.

20 (b) An ordinance adopted pursuant to subdivision (a) may  
21 incorporate any or all of the offenses enumerated in paragraphs  
22 (1) to (4), inclusive, of subdivision (a).

23 (c) An ordinance adopted pursuant to subdivision (a) shall  
24 include, but is not limited to, all of the following provisions:

25 (1) A procedure for a registered or legal owner of record at the  
26 time of impoundment to determine the validity of the impoundment  
27 pursuant to Section 14602.8 and expressly requiring a timely  
28 poststorage hearing pursuant to Section 22852.

29 (2) A procedure allowing a spouse, registered domestic partner,  
30 or other affected third party to object to the impoundment of the

1 vehicle on the grounds that it would create a hardship if the subject  
2 vehicle is the sole vehicle in a household.

3 (3) A condition that in determining whether to order a vehicle  
4 impounded, the hearing officer shall consider whether the hardship  
5 to a spouse, registered domestic partner, or other affected third  
6 party created by the impoundment of the subject vehicle, or the  
7 severity of the impoundment, outweigh the seriousness and the  
8 severity of the act in which the vehicle was used.

9 *(d) For a vehicle that is used in the commission or attempted*  
10 *commission of a violation of subdivision (h) of Section 374.3 of*  
11 *the Penal Code, the ordinance adopted pursuant to subdivision*  
12 *(a) shall require the owner or operator of the vehicle to have a*  
13 *prior conviction of subdivision (h) of Section 374.3 of the Penal*  
14 *Code before the vehicle may be declared a nuisance and subject*  
15 *to impoundment.*